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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/337,243 06/22/99 MAURER

S 30349

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PM82/0911

EXAMINER

SAFAVI, M

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 09/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

337,243

Applicant(s)

MAURER

Examiner

SAFAVI

Group Art Unit

3635

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on JUNE 18, 2001.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-8, 12, 14-19, 23, 26-38 is/are pending in the application.
- Of the above claim(s) 16-19, 23 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-8, 12, 14, 15, 26-38 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear to have originally disclosed an article of manufacture “adapted to be installed only at an intersection corresponding in geometry to an intersection of a wall and a ceiling”. Such would appear directed to new matter.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8, 12, 14, 15, and 26-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 5, “the front surface profiles of crown molding and cove molding” lacks an antecedent basis within the claim.

Art Unit:

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claims 1-5, 12, 14, 26-32, and 34-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson. Johnson shows a flexible polyvinyl plastic foam member 12/16/17 having pressure sensitive adhesive 19 affixed to a rear side thereof along a "top" portion and "bottom" portion with a release strip 20 covering the adhesive layer. Or, a single flexible polyvinyl plastic foam member 12 having pressure sensitive adhesive 18 affixed to a rear side thereof. A first surface of the rear surface is as at 15, particularly Fig. 3), with the first surface forming a corner with an intersecting surface, (i.e., that surface which leads into the first surface). The "first surface" would be on either side of groove 15. The Johnson molding possessing any decorative cross section, col. 4, lines 60-62.

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Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 30, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson. To have formed the Johnson molding of a length greater than 30 feet, thus accommodating any particular stretch of corner to be decorated, as well as form the molding of a thickness between 3/16 and 3/4 inch, thus allowing for adequate protection and enhanced aesthetic appearance, would have constituted an obvious expedient to one of ordinary skill in the art. Forming the Johnson molding of a foam having a density of less than 9 lbs./cu. ft., thus providing a member which would allow for ease of handling and placement, would have constituted a further obvious expedient to one of ordinary skill in the art.

9. Claims 1-5, 12, 14, 15, and 26-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finefrock. Finefrock shows a flexible rubber or other elastomeric member 11 having pressure sensitive adhesive 16, 17 affixed to a rear side thereof with a release strip 19, 20 covering the adhesive layer. To have formed the Finefrock member 11 of a plastic foam rubber material such as a rubber latex or a polyethylene foam, thus affording the desired properties of Finefrock with a cost effective material, would have constituted an obvious expedient to one of

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ordinary skill in the art. Forming the Finefrock molding of a length greater than 30 feet, thus accommodating any particular stretch of corner to be decorated, as well as form the molding of a thickness between $3/16$ and $3/4$ inch, thus allowing for adequate protection and enhanced aesthetic appearance, would have constituted a further obvious expedient to one of ordinary skill in the art. Forming the Finefrock molding of a foam having a density of less than 9 lbs./cu. ft., thus providing a member which would allow for ease of handling and placement, would have constituted a further obvious expedient to one of ordinary skill in the art.

10. Claims 1-5, 12, 14, 15, and 26-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan in view of either of Johnson or Finefrock. Logan shows, Figs. 2, 4, and 6, a flexible plastic foam member 10 having pressure sensitive adhesive 20 affixed to a rear side thereof. Each of Johnson and Finefrock teach utilization of a release strip to cover an adhesive layer affixed to a rear surface of a molding strip. To have provided the Logan molding with a release strip covering the adhesive layer 20 along a rear surface of the molding, thus providing protection for the adhesive strip prior to application along a wall, would have constituted an obvious expedient to one of ordinary skill in the art as taught by either of Johnson at 20 or Finefrock at 19, 20. To have formed the Logan member 10 of a plastic foam material such as a polyethylene foam, thus affording the desired properties of Logan with a cost effective material, would have constituted an obvious expedient to one of ordinary skill in the art. Forming the resulting Logan molding of a length greater than 30 feet, thus accommodating any particular

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stretch of corner to be decorated, as well as form the molding of a thickness between 3/16 and 3/4 inch, thus allowing for adequate protection and enhanced aesthetic appearance would have constituted a further obvious expedient to one of ordinary skill in the art. Forming the resulting Logan molding of a foam having a density of less than 9 lbs./cu. ft., thus providing a member which would allow for ease of handling and placement, would have constituted a further obvious expedient to one of ordinary skill in the art.

11. Claims 6-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments filed June 18, 2001 have been fully considered but they are not persuasive. With regard to "crown molding" or "cove molding", such is shown and taught by Johnson as well as Finefrock, applicant's reference to the catalogs of Hiland Wood Products and American Hardwood notwithstanding. As for Applicant's arguments to capable of being effectively installed...at the intersection of a wall and ceiling", Finefrock is capable of such installation. Applicant's arguments to the contrary appear as nothing more than conjecture. Particularly with remarks directed to "would tend to pull free". As for Applicant's arguments

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against Logan, applicant is reminded that Logan has been modified to present a polyethylene foam molding.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.

M. Safavi
September 10, 2001



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**